IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL APPEAL No. 431 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE
HON'BLE MR. JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT - Appellant(s)

Versus

GORDHAN MANJI KOLI & 2 - Opponent(s)

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Appearance :
MR. S.S. PATEL, A.P.P. for Petitioner No(s).: 1.
MR PRAVIN GONDALIYA for Respondent No(s).: 1, 2,3.
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CORAM : HON'BLE MR.JUSTICE A.R.DAVE
and
HON'BLE MR. JUSTICE MD SHAH

Date : 22/07/2005

ORAL JUDGMENT

(Per : HON'BLE MR.JUSTICE A.R.DAVE)

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1. This is an appeal against the judgment and order dated 20th December, 2002 passed by the

Additional Sessions Judge, Rajkot in Sessions Case No. 235 of 1997. By virtue of the impugned judgment, out of four accused, one has been convicted whereas three accused have been acquitted of the charges levelled against them under the provisions of Sections 323, 324, 426 and 509 read with Section 114 of Indian Penal Code, Section 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and under Section 135 of the Bombay Police Act.

2. We have heard ld. Assistant Public Prosecutor Mr. S.S. Patel and have also perused the records and proceedings pertaining to the case.

3. Upon hearing the ld. Advocate and upon perusal of the record, in our opinion, no case could be made out by the prosecution against the opponent accused. Looking to the evidence, it is very clear that no role had been played by the accused in the offence alleged against them.

4. Upon perusal of the evidence, it appears that

there were major contradictions so far as injuries inflicted upon the victim. Moreover, there is no evidence regarding uttering of any objectionable words by the accused. The ocular evidence with regard to injury and the medical certificate are also not in consonance with each other.

5. In view of the above facts, in our opinion, the prosecution had failed in making out a case against the present opponents – accused and, therefore, the Trial Court has rightly acquitted them.

6. We do not find any substance in the appeal and, therefore, the appeal is dismissed.

[A.R. DAVE, J.]

[M.D. SHAH, J.]

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